

In the next few years, school districts will face difficult choices as they struggle to address budget shortfalls resulting from economic downturns. As you prepare your budget for the upcoming year, please keep in mind that federal dollars may not be used to replace state or local funds. Title I contains three fiscal requirements that LEAs must comply with in order to continue to receive funding. Most of the federal programs contain the Supplement Not Supplant (SNS) requirement. If an LEA fails to comply with these requirements, they will be required by law to return the amount of misused funds.

Maintenance of Effort - All Covered Programs (except Title V)

Requirement: An LEA may receive funds if DESE finds that the LEA's combined fiscal effort per student or the aggregate expenditures of the LEA from state and local funds for free public education for the preceding year is not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year.

Compliance Reviewed: Compliance is verified each year by the Federal Financial Management staff using specific data from the Annual Secretary of the Board Report.

Reduction in Case of Failure to Maintain Effort: DESE shall reduce the amount of the allocation of funds in the exact proportion by which an LEA fails to meet the requirement by falling below 90 percent of both the combined fiscal effort per student and the aggregate expenditures. DESE will use the measure most favorable to the LEA when determining penalty.

Waiver: The United States Department of Education Secretary may waive the requirements of this section if it is determined that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster; or a precipitous decline in the financial resources of the LEA.

Comparability of Services – Title I Program

Requirement: An LEA may receive funds under Title I only if State and local funds will be used in schools served under Title I to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I funds. If the LEA is serving all schools under Title I, the LEA may receive Title I funds if the LEA will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school. The LEA may meet the requirements on a grade-span-by-grade-span basis or a school-by-school basis.

Compliance Reviewed: For every LEA that has multiple attendance centers, compliance is verified each year by the Federal Financial Management staff using specific data from the October cycle of the Core Data Report. The LEA has another option to show equivalent compliance. An LEA shall be considered to have met the comparability requirements if the LEA has filed with DESE a written assurance that their district has established and implemented: An LEA-wide salary schedule; a policy to ensure equivalence among schools in teachers, administrators, and other staff; and a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Reduction in Case of Failure to Provide Comparable Services: If an LEA fails to comply with these requirements, they will be required by law to return the amount of misused funds.

Waiver: There is no waiver process for the Comparability rule.

Supplement-Not-Supplant (SNS) – Most Federal Programs

Requirement: An LEA shall use Federal funds received under this part only to supplement the funds that would, **in the absence of such Federal funds**, be made available from non-Federal sources for the activities authorized under the individual programs, and not to supplant such funds. See the following website for a listing of Supplement-Not-Supplant requirements for Federal Programs: <http://www.ed.gov/offices/OESE/SASA/handouts/sns.pdf>

Compliance Reviewed: The SNS requirement may be monitored through the district's self-monitoring checklist, through a monitoring review by the Federal Grants Management staff, or by an independent audit. To test for compliance of SNS requirements, LEAs should ask these questions: "What would have happened in the absence of the federal funds? Is the district meeting the minimum MSIP class-size standards with state and locally funded teachers? Would the Board of Education approve this class size in the absence of federal funds?"

According to OMB Circular A-133, it is presumed that supplanting has occurred if:

- The LEA used Federal funds to provide services that the LEA was required to make available under other Federal, State, or local laws.
- The LEA used Federal funds to provide services that the LEA provided with non-federal funds in the prior year.
- The LEA used Title I Parts A or C funds to provide services for participating children that the SEA or LEA provided with non-federal funds for nonparticipating children.

Presumption of supplant is rebuttable if the LEA can demonstrate (written documentation such as budget information, planning documents, class-size data from previous years and upcoming year, board minutes, or other materials) that it would not have provided the services in question with non-federal funds had the federal funds not been available.

Title II, Part A Guidance provides the following question and answer regarding supplant. "May Title II, Part A funds be used for State-mandated activities? The ability of an LEA to use Title II, Part A funds to carry out activities mandated by a State depends upon whether non-Federal funds are already available to carry out those activities. Presumably, in the absence of Title II, Part A funds, the LEA would use State or local funds to implement any policies mandated by the State legislature, the State Board of Education, or the SEA. If that is the case, then using Title II, Part A funds for those activities would violate the non-supplanting requirement, because the LEA would be using Federal funds for activities that it would otherwise support with other funds.

However, in certain instances, an LEA may be able to overcome the presumption that supplanting will result if Title II, Part A funds are used for a State-mandated program or activity. In order to make such a case, the LEA should have available written documentation (e.g., budget information, planning documents, or other materials) demonstrating that it would not have the resources to meet State mandates if it did not have access to Title II, Part A funds. If the LEA can produce that documentation, the LEA will have made a sufficient case that the activities it will fund under Title II, Part A are supplemental, even though some of them are mandated by the State. LEAs desiring to use Title II, Part A funds for State-mandated activities should carefully identify the activities they would have supported in the absence of funding from the program. If an agency can show that it would not have met all State mandates with non-Title II, Part A funds, then it may use funds from the program to address those mandates. In no event, however,

may an agency decrease State or local support for mandated activities because of the availability of Title II, Part A funds.”

Reduction in Case of Supplant Finding: If an LEA fails to comply with these requirements, they will be required by law to return the amount of misused funds.

Waiver: There is no waiver process for SNS rules. However, if requested by an LEA, Federal Programs staff members will review the LEA’s written documentation and provide feedback regarding compliance with SNS rules.

Please feel free to contact my office if you have questions regarding the fiscal requirements. Check the federal programs website in May for the maintenance of effort worksheet and for comparability of services worksheets and instructions.

<http://www/dese.state.mo.us/divimprove/fedprog/>